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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,305	03/12/2004	Louis Dandurand	Dandurand 2	8122
7590	03/08/2006		EXAMINER BOTTORFF, CHRISTOPHER	
David M. Driscoll 1201 Canton Avenue Milton, MA 02186			ART UNIT 3618	PAPER NUMBER

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/799,305	DANDURAND, LOUIS	
	Examiner	Art Unit	
	Christopher Bottorff	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 14, 16, 21, 27, 32, 34 and 37 is/are rejected.
- 7) ☒ Claim(s) 15, 17, 22-26, 28-31, 33, 35, 36 and 38-50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Species III, as disclosed in relation to Figures 10-16, in the reply filed on February 2, 2006 is acknowledged. Because applicant did not distinctly and specifically point out errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-50 are pending.

Information Disclosure Statement

The information disclosure statements (IDSs) submitted on March 12, 2004 were considered by the examiner.

Claim Objections

Claims 21-50 are objected to because of the following informalities: the claims are replete with errors. For example, the limitation "there is first member" in line 1 of claim 22 is incomplete; the limitation "front surface if the base" in line 1 of claim 23 should be "front surface of the base;" and the term "engagemen" in line 1 of claim 26 should be "engagement." The claims should be carefully reviewed for clarity and accuracy. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-17 and 21-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with unclear and indefinite limitations. For example, claim 21 requires the boot support members to have locked and released positions on line 7 and the carriage to have separate and distinct locked and released positions on lines 10-11. However, the specification and drawings indicate only one locked position and one released position for the entire carriage, including the support members, such that when the support members are in the released or locked position, the carriage is in the same position. That is, the released and locked positions are the same binding configuration for both the support members and carriage. This is also true in claim 34. For the purposes of examination, the claims have been interpreted consistent with the specification and drawings.

Claims 27, 32, 33, and 37 each recite "a cross piece." However, this component of the present invention is already defined as "an overlying member" in the independent claims from which claims 27, 32, 33, and 37 depend. While the overlying member may be further limited as a cross piece, the cross piece and overlying member are not, according to the specification and drawings, two distinct components. For the purposes of examination, claims 27, 32, 33, and 37 have been interpreted such that the overlying member comprises a cross piece.

Claim 48 defines "a base" in line 2 and " a fixed position base" in line 10. However, the specification and drawings indicate that only one base exists in the present invention. For the purposes of examination, the base recited on line 2 has been interpreted as a fixed position base.

Claim 14 recites the limitation "said base" in line 3. There is insufficient antecedent basis for this limitation in the claim. Further antecedent bases problems exist throughout the claims.

The claims should be thoroughly reviewed for clarity and definiteness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 21, 27, 32, 34, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Tessaro US 4,659,103.

Tessaro discloses a step-in binding for receiving a ski boot, comprising a fixed position base 5 and a carriage 22. See Figures 1 and 4. The base 5 is constructed and arranged to be secured to the ski 2. See Figure 1. The carriage 22 is pivotally supported from a front side of the base 5. See Figures 1 and 4.

The carriage 22 comprises a pair of boot support members 39 that are respectively disposed at opposed sides of the base 5 and that are adapted to receive

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the sole of the ski boot 4. See Figures 1 and 4. The boot support members 39 have locked and released positions, which correspond to locked and released positions of the carriage 22. See Figures 4 and 5. The carriage 22 further comprises an overlying member above seat 40 that pivots with the pair of boot support members 39, is disposed over the base 5, and engages a top surface of the sole of the ski boot 4 when the ski boot is inserted into the carriage. See Figures 1 and 4. The overlying member is in the form of a cross piece (bar) extending transversely between the boot support members 39 at a forward position of the boot support members 39 for engaging the front top of the boot 4 over the duckbill 3. See Figures 1 and 4. Furthermore, in regard to claim 16, the cross piece is spaced rearwardly of the pivot axis at screw 31 of the boot support members 39 by a dimension on the order of 0.75 to 2.25 inches. Compare the relative positions depicted in Figure 4 to the relative size of the binding on a ski as depicted in Figure 1.

The carriage 22, upon receiving said boot 4, may be cantilevered downwardly from the released position to the locked position wherein the sole of the ski boot 4 is clamped by the overlying member against the fixed position base 5. See Figures 4 and 5 and column 4, lines 1-16.

A center block 41 is constructed and arranged to be secured to the ski via base 5. See Figures 1 and 4. The support members 39 are pivotally supported from a front side of the base 5 at screw 31 and are disposed laterally on either side of the center block 41. See Figures 1, 2, and 4. The lateral side members 39 are tapered inwardly toward the front so as to receive and guide the ski boot 4 as it is to be engaged. See

Figures 1 and 2. The pair of boot support members 39 is biased to the released position (boot receiving position) by wedge 38 of spring means 36. See column 3, lines 30-35, and column 4, lines 23-29. A release lever 15 is arranged at the front of the base 5 such that it is readily accessible to the skier and includes a member 21 that releases the pair of boot support members from the locked position to the boot receiving position upon activation of the release lever 15. See Figures 1, 7, and 8. Also, the center of the cross bar receives the front of the toe box of the boot 4, and the ends of the cross bar extend rearwardly by a distance in a range of 0.25 to 1.75 inches relative to the front of the binding, spring means 36, and the pivot axis at screw 31. See Figures 1 and 4.

Allowable Subject Matter

Claims 1-13 and 18-20 are allowed. The prior art does not teach the first and second members defined in claim 1, in combination with the further limitations of the claim. The prior art does not teach the lateral support members extending in a range on the order of 2.0 to 4.5 inches, as defined in claim 18, in combination with the further limitations of the claims.

Claims 48-50 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The prior art does not teach support members that form a platform on which a boot sole rests, as defined in claim 48, in combination with the further limitations of the claim.

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Claims 15, 17, 22-26, 28-31, 33, 35, 36, and 38-47 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The prior art does not teach: the pressure plate as defined in claim 15, the dimensional distance defined in claims 17 and 33; the first and second support members defined in claims 22-26, 29- 30, 35, 38-39, and 41-46; the platform formed by the support members as defined in claims 28 and 36; the brake legs that engage respective boot support members as defined in claims 31 and 47; and the elevated front top surface of the base as defined in claim 40. These features, in combination with the further limitations of the claims, distinguish the claimed invention over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rohrmoser, Haughlin US D 375,773, Dubuque, Vigny, Hauglin US D 425,162, Wheeler US 6,092,830, Parris et al. US 6,105,994, Klubitschko, Spitaler et al., Parris et al. US 6,299,193, Ludlow, Wheeler US 6,322,095, and Ayliffe disclose ski binding arrangements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Bottorff